

## EXHIBIT Y

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 17 SAP AG, SAP AMERICA, INC., and  
 18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT  
 20 NORTHERN DISTRICT OF CALIFORNIA  
 21 OAKLAND DIVISION

22 ORACLE USA, INC., et al.,

Case No. 07-CV-1658 PJH (EDL)

23 Plaintiffs,

**DEFENDANTS' SECOND AMENDED  
 AND SUPPLEMENTAL RESPONSE  
 TO PLAINTIFFS' THIRD SET OF  
 REQUESTS FOR ADMISSION TO  
 DEFENDANTS TOMORROWNOW,  
 INC., SAP AG, AND SAP AMERICA,  
 INC.**

24 v.

25 SAP AG, et al.,

26 Defendants.

**CONFIDENTIAL PURSUANT TO  
 PROTECTIVE ORDER**

1 **PROPOUNDING PARTIES:** Plaintiffs Oracle USA, Inc., Oracle International  
 2 Corporation, and Oracle EMEA, Ltd.

3 **RESPONDING PARTY:** Defendants TomorrowNow, Inc., SAP America, Inc., and  
 4 SAP AG

5 **SET NUMBER:** Three

6 Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Defendants  
 7 TomorrowNow, Inc., SAP America, Inc., and SAP AG amend and supplement their responses  
 8 and object as follows to the third set of requests for admission from plaintiffs Oracle USA, Inc.,  
 9 Oracle International Corporation, and Oracle EMEA, Ltd. (“Plaintiffs”).

10 **GENERAL OBJECTIONS AND RESPONSES**

11 The following General Objections apply to and are incorporated by reference into each  
 12 response set forth below. These objections are made without waiver of, or prejudice to, these or  
 13 other objections Defendants may make; all such objections are expressly preserved.

14 1. Defendants object to each Request for Admission to the extent that it enlarges  
 15 upon or is otherwise inconsistent with the duties imposed by the Federal Rules of Civil Procedure,  
 16 the Local Rules for the Northern District of California, any applicable order of this Court, or any  
 17 agreement of the parties.

18 2. Defendants object to each Request for Admission to the extent that it seeks  
 19 information that is not within TomorrowNow’s possession, custody, or control.

20 3. Defendants object to each Request for Admission to the extent that it seeks  
 21 information that is not relevant to any claim or defense in this action, or is not reasonably  
 22 calculated to lead to the discovery of admissible evidence that is relevant to any claim or defense,  
 23 under Rule 26(b)(1) of the Federal Rules of Civil Procedure. Defendants specifically object to  
 24 each request for admission as unduly burdensome, oppressive, and calling for information that is  
 25 neither relevant to any claim or defense of any party nor reasonably calculated to lead to the  
 26 discovery of admissible evidence, to the extent the request seeks documents or information  
 27 unrelated to PeopleSoft, J.D. Edwards (“JDE”), or Siebel products as to which TomorrowNow

1 provided support to customers, except to the very limited extent the parties have agreed and the  
 2 Court has ordered otherwise.

3       4. Defendants object to each Request for Admission as unreasonable and unduly  
 4 burdensome to the extent that it requests information that is already within Plaintiffs' possession,  
 5 already known or disclosed to Plaintiffs, or readily accessible and/or equally available to  
 6 Plaintiffs or is available from public sources.

7       5. Defendants object to each Request for Admission to the extent that it seeks  
 8 information protected by the attorney-client privilege, the work-product immunity, or is protected  
 9 from production by any other applicable privilege or immunity. Inadvertent disclosure of any  
 10 privileged communications or work product shall not constitute a waiver of privilege or of any  
 11 other basis for objecting to discovery with respect to such information.

12       6. Defendants object to each Request for Admission to the extent that it improperly  
 13 seeks a legal conclusion.

14       7. Defendants object to each Request for Admission to the extent that it seeks  
 15 information containing trade secrets, proprietary information, or other confidential or  
 16 competitively sensitive business information. Such information will be provided only subject to  
 17 the protective order in this case.

18       8. Defendants object to the extent the relevant time period is undefined, defined  
 19 vaguely, or includes time periods that are not relevant to any claim or issue in this case.

20       9. Defendants object to the definition of "Copy" as being overly broad, unduly  
 21 burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence  
 22 to the extent it purports to encompass anything beyond the term as defined under U.S. copyright  
 23 law. Defendants further object to Plaintiffs' use of the term "copy" in these requests as  
 24 improperly shifting the burden of proof to Defendants.

25       10. Defendants object to the definition of "Customer" to the extent the requests  
 26 containing the term require Defendants to produce data for all of "Defendants' current and former  
 27 customers." The definition is overly broad, unduly burdensome, designed to harass, and not  
 28

1 reasonably calculated to lead to the discovery of admissible evidence. Defendants will only  
 2 respond to the extent the Customer had a contract with TomorrowNow.

3       11. Defendants object to the definition of “Database” as overly broad, vague, and  
 4 ambiguous to the extent the term is defined as a component of a PeopleSoft environment  
 5 “generally referred to by the ‘DATABASE\_RESTORE’ field in BakTrak” and to the extent the  
 6 definition is said to include “application engine files.” The general reference to a BakTrak field  
 7 designed to track whether a database restore occurred does not provide a specific definition of this  
 8 term and is confusing. Further, Defendants object to the term “application engine files” to the  
 9 extent the use of the word “file” excludes “definitions.”

10       12. Defendants object to the definition of “Download” to the extent the requests  
 11 containing the term require Defendants to produce data regarding material not downloaded from  
 12 the “Customer Connection” website. As Plaintiffs state in their fourth objection to  
 13 TomorrowNow’s First Set of Interrogatories, “[o]ther Oracle support websites or FTP sites are  
 14 not at issue in this litigation, and . . . [the] definition calls for irrelevant materials and would  
 15 impose an excessive burden . . . .” The definition of “Download” calls for irrelevant materials  
 16 and imposes an excessive burden.

17       13. Defendants object to the definition of “Employees” as being overly broad, unduly  
 18 burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence  
 19 to the extent that it encompasses persons “purporting to act on behalf of the entity to which the  
 20 term refers.”

21       14. Defendants object to the definition of “Environment” as being overly broad,  
 22 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible  
 23 evidence to the extent it includes individual environment components and is not intended to only  
 24 refer to all environment components working as one unit.

25       15. Defendants object to the definition of “Fix” as being overly broad, unduly  
 26 burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence  
 27 to the extent it includes Master Fix records as included in the SAS database.

28

1       16. Defendants object to the definition of “Fix Object” as overly broad, vague,  
 2 confusing, and inaccurate to the extent it includes the phrases “discrete unit of code” and “units of  
 3 code,” as not all objects contain code. Defendants object to the use of the term “any” as overly  
 4 broad and unduly burdensome. Defendants further object that the definition is overly broad,  
 5 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible  
 6 evidence to the extent it includes the undefined terms “functions” and “other data structures.”  
 7 Moreover, Defendants object that the list of what is included in the definition (“PeopleCode  
 8 objects, fields, records, pages, menus, components, messages, panels, stored statements, panel  
 9 groups, rule packages, COBOL source code files, COBOL executables, SQR files, SQC files,  
 10 writer files, Crystal Reports files, SQL scripts, database creation scripts, DAT files, DMS files,  
 11 project files, batch files, configuration files, or other similar units of code contained in the  
 12 PeopleSoft or JD Edwards products serviced or supported by any Defendant”) is overly broad,  
 13 vague, ambiguous, duplicative, and misleading because this list includes: (1) terms which were  
 14 not normally part of an object as that term was used at TomorrowNow, e.g., “database creation  
 15 scripts,” “COBOL executables,” and “configuration files”; (2) terms which can have the same  
 16 meaning, e.g. “panels” and “pages”; and (3) terms which are very broad and undefined, e.g.,  
 17 “writer files,” “project files,” and “batch files.” Defendants will respond as if the undefined term  
 18 “object” was used in “fix object’s” place.

19       17. Defendants object to the definition of “Generic Environment” as being overly  
 20 broad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of  
 21 admissible evidence. Defendants further object that the term “generic environment” is misleading  
 22 to the extent that includes HR751CSS as an example, as Defendants deny that HR751CSS is a  
 23 generic environment. Defendants further object to the definition of “Generic Environment” to the  
 24 extent it incorporates the overly broad, unduly burdensome, and vague term “Environment,” to  
 25 which Defendants object above.

26       18. Defendants object to the definition of “Local Environment” as being overly broad,  
 27 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible  
 28 evidence to the extent it not limited to all environment components working as one unit and

1 located at TomorrowNow. Defendants further object to the definition of "Local Environment" to  
 2 the extent it incorporates the overly broad, unduly burdensome, and vague term "Environment,"  
 3 to which Defendants object above.

4       19. Defendants object to the definition of "Online Objects" as being overly broad,  
 5 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible  
 6 evidence to the extent it incorporates the overly broad, unduly burdensome, and vague term  
 7 "Environment," to which Defendants object above.

8       20. Defendants object to the definition of "PS\_Home" as overly broad, vague, and  
 9 ambiguous to the extent the term is defined as a component of a PeopleSoft environment  
 10 "generally referred to by the 'NT\_RESTORE' and 'UNIX\_RESTORE' fields in BakTrak" and to  
 11 the extent that the definition is stated to include "writer files." The general reference to a  
 12 BakTrak field designed to track whether a PS\_Home restore occurred does not provide a specific  
 13 definition of this term and is confusing. Further, Defendants object to the term "writer files" as  
 14 undefined, vague, and ambiguous.

15       21. Defendants object to the definition of "Registered Work" as being overly broad,  
 16 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible  
 17 evidence to the extent it purports to include "any subsequently added copyright registrations in  
 18 any later amended complaint" or any copyright registrations beyond those identified in the Third  
 19 Amended Complaint. Defendants further object to the definition of "Registered Work" to the  
 20 extent it purports to encompass anything beyond the term as defined under U.S. copyright law.  
 21 Defendants further object to Plaintiffs' use of the term "registered work" in these requests as  
 22 improperly shifting the burden of proof to Defendants.

23       22. Defendants object to Plaintiffs' definitions of "SAP AG," "SAP America," "SAP  
 24 TN," "You," or "Your" to the extent that those definitions include persons or entities other than  
 25 TomorrowNow, SAP America and SAP AG. Defendants further object to the extent Plaintiffs'  
 26 definitions improperly expand the scope of discovery by seeking data that is not currently in the  
 27 possession, custody, or control of Defendants.

28

23. Defendants objects to Plaintiffs' definition of "SAP IP" as being unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence.

24. Defendants object to Plaintiffs' definition and use of the term "SAP TN," as TomorrowNow, Inc. is not now and never has been known as SAP TN.

25. Defendants object to the definition of “Software and Support Materials” to the extent the definition includes Siebel-branded products, which are only at issue in the litigation pursuant to the limits imposed by the Court’s June 4, 2009 Stipulated Revised Case Management and Pretrial Order. Defendants will only respond consistent with the discovery limits in place in this case.

26. Defendants object to the definition of “Update” as being overly broad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it includes “fix,” a term to which Defendants object above.

27. Defendants' responses to Plaintiffs' Requests for Admission do not constitute admissions or acknowledgements that the information sought is within the proper scope of discovery or admissible at trial.

28. Defendants' discovery and investigation in connection with this case are continuing. As a result, Defendants' responses are limited to information obtained and reviewed to date, and are given without prejudice to Defendants' right to amend or supplement its responses based on newly obtained or reviewed information.

29. Under Fed. R. Civ. P. 36(b), any and all admissions made by Defendants through the following responses are made for the purpose of this pending civil action only and are not an admission for any other purpose nor may any such admissions be used against Defendants in any other proceeding.

## **REQUESTS FOR ADMISSION**

**REQUEST NO. 1:**

Admit that TN Hard Drive 78, produced as TN-OR04497668, satisfies the authenticity requirements of Rule 901(a) of the Federal Rules of Evidence.

1 materials would then be available for customer-specific downloads by TomorrowNow's  
 2 customers who would use their customer-specific log-in credentials to download their respective  
 3 materials. On certain occasions, certain of the items listed on TN-OR04497668 may have been  
 4 either e-mailed, sent on CD by Federal Express or otherwise transmitted to the specific customer  
 5 for whom those items were intended. And, in certain instances, information regarding such  
 6 transmittals was recorded in TomorrowNow's SAS databases. Defendants are unaware of any  
 7 definitive set of records which would, in a readily obtainable way, indicate whether all the items  
 8 listed on TN-OR04497668 were actually sent to, and/or received by, the intended recipient listed  
 9 for each item.

10 **REQUEST NO. 12:**

11 For each item 1-33186 on Exhibit D, admit that the listed Fix Object contains more than a  
 12 de minimis amount of protectable subject matter pursuant to 17 U.S.C. § 102.

13 **RESPONSE TO REQUEST NO. 12:**

14 Defendants object to this request on the grounds stated in the General Objections and  
 15 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 16 respect to the information sought in this request because Defendants SAP AG and SAP America  
 17 have no additional knowledge separate and apart from the information provided by Defendant  
 18 TomorrowNow in this response. Defendants object to this request for admission because it calls  
 19 for a conclusion of law. Defendants object to this request for admission because it calls for expert  
 20 opinion. Defendants further object that the phrase "protectable subject matter" is undefined,  
 21 vague, and ambiguous. Defendants further object to the term "Fix Object" as overly broad, vague,  
 22 and inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as  
 23 if the undefined term "object" was used in "Fix Object's" place. Subject to the General  
 24 Objections and Responses and these specific objections, this request is DENIED.

25 **REQUEST NO. 13:**

26 For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 27 Created using a Local Environment.

1           **RESPONSE TO REQUEST NO. 13:**

2           Defendants object to this request on the grounds stated in the General Objections and  
 3 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 4 respect to the information sought in this request because Defendants SAP AG and SAP America  
 5 have no additional knowledge separate and apart from the information provided by Defendant  
 6 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 7 "created," and "local environment" make this request overly broad, vague, and ambiguous.  
 8 Further, Defendants object to this request as compound and unduly burdensome in that this  
 9 request asks 33,185 separate questions, and the request would require Defendants to review  
 10 substantial business records to determine an answer, if possible, for each of the 33,185 separate  
 11 requests. Defendants further object to the term "Fix Object" as overly broad, vague, and  
 12 inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if  
 13 the undefined term "object" was used in "Fix Object's" place.

14           Subject to the General Objections and Responses and these specific objections, after a  
 15 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 16 sufficient information to respond to these requests as the information sought was not tracked,  
 17 recorded, or maintained by TomorrowNow in a "readily obtainable manner." On this basis,  
 18 therefore, these requests are DENIED.

19           **REQUEST NO. 14:**

20           For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 21 tested, a Copy of the listed Fix Object was tested using a Local Environment.

22           **RESPONSE TO REQUEST NO. 14:**

23           Defendants object to this request on the grounds stated in the General Objections and  
 24 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 25 respect to the information sought in this request because Defendants SAP AG and SAP America  
 26 have no additional knowledge separate and apart from the information provided by Defendant  
 27 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 28 "tested," and "local environment" make this request overly broad, vague, and ambiguous. Further,

1 Defendants object to this request as compound and unduly burdensome in that this request asks  
 2 33,185 separate questions, and the request would require Defendants to review substantial  
 3 business records to determine an answer, if possible, for each of the 33,185 separate requests.  
 4 Defendants further object to the term “Fix Object” as overly broad, vague, and inaccurate to the  
 5 extent it includes the phrase “discrete unit of code.” Defendants respond as if the undefined term  
 6 “object” was used in “Fix Object’s” place.

7 Subject to the General Objections and Responses and these specific objections, after a  
 8 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 9 sufficient information to respond to these requests as the information sought was not tracked,  
 10 recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On this basis,  
 11 therefore, these requests are DENIED.

12 **REQUEST NO. 15:**

13 For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 14 Created using a Local Environment that did not solely consist of an installation from, a Copy of,  
 15 or an installation from a Copy of software received from or on behalf of the recipient stated for  
 16 the respective item.

17 **RESPONSE TO REQUEST NO. 15:**

18 Defendants object to this request on the grounds stated in the General Objections and  
 19 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 20 respect to the information sought in this request because Defendants SAP AG and SAP America  
 21 have no additional knowledge separate and apart from the information provided by Defendant  
 22 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 23 “created,” and “local environment” make this request overly broad, vague, and ambiguous.  
 24 Further, Defendants object to this request as compound and unduly burdensome in that this  
 25 request asks 33,185 separate questions, and the request would require Defendants to review  
 26 substantial business records to determine an answer, if possible, for each of the 33,185 separate  
 27 requests. Defendants also object that the phrase “that did not solely consist of an installation from,  
 28 a Copy of, or an installation from a Copy of software received from or on behalf of the recipient

1 stated for the respective item" is vague and ambiguous. Defendants further object to the term  
 2 "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase "discrete  
 3 unit of code." Defendants respond as if the undefined term "object" was used in "Fix Object's"  
 4 place.

5 Subject to the General Objections and these specific objections, after a reasonable inquiry  
 6 and based on Defendants' understanding of these questions, Defendants lack sufficient  
 7 information to respond to these requests as the information sought was not tracked, recorded, or  
 8 maintained by TomorrowNow in a "readily obtainable manner." On this basis, therefore, these  
 9 requests are DENIED.

10 **REQUEST NO. 16:**

11 For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was tested  
 12 using a Local Environment that did not solely consist of an installation from, a Copy of, or an  
 13 installation from a Copy of software received from or on behalf of the recipient stated for the  
 14 respective item.

15 **RESPONSE TO REQUEST NO. 16:**

16 Defendants object to this request on the grounds stated in the General Objections and  
 17 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 18 respect to the information sought in this request because Defendants SAP AG and SAP America  
 19 have no additional knowledge separate and apart from the information provided by Defendant  
 20 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 21 "tested," and "local environment" make this request overly broad, vague, and ambiguous. Further,  
 22 Defendants object to this request as compound and unduly burdensome in that this request asks  
 23 33,185 separate questions, and the request would require Defendants to review substantial  
 24 business records to determine an answer, if possible, for each of the 33,185 separate requests.  
 25 Defendants also object that the phrase "that did not solely consist of an installation from, a Copy  
 26 of, or an installation from a Copy of software received from or on behalf of the recipient stated  
 27 for the respective item" is vague and ambiguous. Defendants further object to the term "Fix  
 28 Object" as overly broad, vague, and inaccurate to the extent it includes the phrase "discrete unit

1 of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

2 Subject to the General Objections and Responses and these specific objections, after a  
 3 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 4 sufficient information to respond to these requests as the information sought was not tracked,  
 5 recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On this basis,  
 6 therefore, these requests are DENIED.

7 **REQUEST NO. 17:**

8 For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 9 Created using a Generic Environment.

10 **RESPONSE TO REQUEST NO. 17:**

11 Defendants object to this request on the grounds stated in the General Objections and  
 12 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 13 respect to the information sought in this request because Defendants SAP AG and SAP America  
 14 have no additional knowledge separate and apart from the information provided by Defendant  
 15 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 16 “created,” and “generic environment” make this request overly broad, vague, and ambiguous.  
 17 Further, Defendants object to this request as compound and unduly burdensome in that this  
 18 request asks 33,185 separate questions, and the request would require Defendants to review  
 19 substantial business records to determine an answer, if possible, for each of the 33,185 separate  
 20 requests. Defendants also object to the term “Fix Object” as overly broad, vague, and inaccurate  
 21 to the extent it includes the phrase “discrete unit of code.” Defendants respond as if the  
 22 undefined term “object” was used in “Fix Object’s” place.

23 Subject to the General Objections and Responses and these specific objections, after a  
 24 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 25 sufficient information to respond to these requests as the information sought was not tracked,  
 26 recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On this basis,  
 27 therefore, these requests are DENIED.

28

**REQUEST NO. 18:**

For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was tested using a Generic Environment.

**RESPONSE TO REQUEST NO. 18:**

Defendants object to this request on the grounds stated in the General Objections and Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with respect to the information sought in this request because Defendants SAP AG and SAP America have no additional knowledge separate and apart from the information provided by Defendant TomorrowNow in this response. Defendants object to the request because the terms "copy," "tested," and "generic environment" make this request overly broad, vague, and ambiguous. Further, Defendants object to this request as compound and unduly burdensome in that this request asks 33,185 separate questions, and the request would require Defendants to review substantial business records to determine an answer, if possible, for each of the 33,185 separate requests. Defendants also object that this is an incomplete and confusing hypothetical. Defendants further object to the term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix Object's" place.

Subject to the General Objections and Responses and these specific objections, after a reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack sufficient information to respond to these requests as the information sought by these confusing and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On this basis, therefore, these requests are DENIED.

**REQUEST NO. 19:**

For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was Created using a Local Environment to which at least one fix, patch, upgrade or update retrofitted from an Oracle-created or Oracle-delivered fix, patch, upgrade or update had been applied.

**RESPONSE TO REQUEST NO. 19:**

Defendants object to this request on the grounds stated in the General Objections and

1 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 2 respect to the information sought in this request because Defendants SAP AG and SAP America  
 3 have no additional knowledge separate and apart from the information provided by Defendant  
 4 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 5 "created," "local environment," and "retrofitted" make this request overly broad, vague, and  
 6 ambiguous. Further, Defendants object to this request as compound and unduly burdensome in  
 7 that this request asks 33,185 separate questions, and the request would require Defendants to  
 8 review substantial business records to determine an answer, if possible, for each of the 33,185  
 9 separate requests. Defendants also object to the term "Fix Object" as overly broad, vague, and  
 10 inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if  
 11 the undefined term "object" was used in "Fix Object's" place.

12 Subject to the General Objections and Responses and these specific objections, after a  
 13 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 14 sufficient information to respond to these requests as the information sought by these requests  
 15 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 16 this basis, therefore, these requests are DENIED.

17 **REQUEST NO. 20:**

18 For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 19 tested, a Copy of the listed Fix Object was tested using a Local Environment to which at least one  
 20 fix, patch, upgrade or update retrofitted from an Oracle-created or Oracle-delivered fix, patch,  
 21 upgrade or update had been applied.

22 **RESPONSE TO REQUEST NO. 20:**

23 Defendants object to this request on the grounds stated in the General Objections and  
 24 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 25 respect to the information sought in this request because Defendants SAP AG and SAP America  
 26 have no additional knowledge separate and apart from the information provided by Defendant  
 27 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 28 "tested," "local environment," and "retrofitted" make this request overly broad, vague, and

1 ambiguous. Further, Defendants object to this request as compound and unduly burdensome in  
 2 that this request asks 33,185 separate questions, and the request would require Defendants to  
 3 review substantial business records to determine an answer, if possible, for each of the 33,185  
 4 separate requests. Defendants also object that this is an incomplete and confusing hypothetical.  
 5 Defendants further object to the term “Fix Object” as overly broad, vague, and inaccurate to the  
 6 extent it includes the phrase “discrete unit of code.” Defendants respond as if the undefined term  
 7 “object” was used in “Fix Object’s” place.

8 Subject to the General Objections and Response and these specific objections, after a  
 9 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 10 sufficient information to respond to these requests as the information sought by these confusing  
 11 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 12 “readily obtainable manner.” On this basis, therefore these requests are DENIED.

13 **REQUEST NO. 21:**

14 For each item 1-33186 on Exhibit D, admit that, for the listed Fix Object, at least one fix,  
 15 patch, upgrade or update that had been applied to a Local Environment used to Create a Copy of  
 16 the listed Fix Object had not been developed solely for or on behalf of the recipient stated for that  
 17 item.

18 **RESPONSE TO REQUEST NO. 21:**

19 Defendants object to this request on the grounds stated in the General Objections and  
 20 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 21 respect to the information sought in this request because Defendants SAP AG and SAP America  
 22 have no additional knowledge separate and apart from the information provided by Defendant  
 23 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 24 “created,” and “local environment,” make this request overly broad, vague, and ambiguous.  
 25 Further, Defendants object that the phrase “at least one fix, patch, upgrade or update that had been  
 26 applied to a Local Environment used to Create a Copy of the listed Fix Object” and the overall  
 27 sentence structure is vague, confusing, and ambiguous. Defendants also object to this request as  
 28 compound and unduly burdensome in that this request asks 33,185 separate questions, and the

1 request would require Defendants to review substantial business records to determine an answer,  
 2 if possible, for each of the 33,185 separate requests. Defendants further object to the term “Fix  
 3 Object” as overly broad, vague, and inaccurate to the extent it includes the phrase “discrete unit  
 4 of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

5 Subject to the General Objections and Responses and these specific objections, due to the  
 6 vague, confusing, and ambiguous language and sentence structure, Defendants are unable to  
 7 determine the meaning of these requests, and so they are DENIED.

8 **REQUEST NO. 22:**

9 For each item 1-33186 on Exhibit D, admit that, for the listed Fix Object, if any testing  
 10 occurred, at least one fix, patch, upgrade or update that had been applied to a Local Environment  
 11 used to test a Copy of the listed Fix Object had not been developed solely for or on behalf of the  
 12 recipient stated for that item.

13 **RESPONSE TO REQUEST NO. 22:**

14 Defendants object to this request on the grounds stated in the General Objections and  
 15 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 16 respect to the information sought in this request because Defendants SAP AG and SAP America  
 17 have no additional knowledge separate and apart from the information provided by Defendant  
 18 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 19 “test,” and “local environment,” make this request overly broad, vague, and ambiguous. Further,  
 20 Defendants object that the phrase “at least one fix, patch, upgrade or update that had been applied  
 21 to a Local Environment used to test a Copy of the listed Fix Object” and the overall sentence  
 22 structure is vague, confusing, and ambiguous. Defendants also object to this request as  
 23 compound and unduly burdensome in that this request asks 33,185 separate questions, and the  
 24 request would require Defendants to review substantial business records to determine an answer,  
 25 if possible, for each of the 33,185 separate requests. Defendants further object to the term “Fix  
 26 Object” as overly broad, vague, and inaccurate to the extent it includes the phrase “discrete unit  
 27 of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

28 Subject to the General Objections and Responses and these specific objections, due to the

1 vague, confusing, and ambiguous language and sentence structure, Defendants are unable to  
 2 determine the meaning of these requests, and so they are DENIED.

3 **REQUEST NO. 23:**

4 For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 5 Created using a Copy of PeopleTools.

6 **RESPONSE TO REQUEST NO. 23:**

7 Defendants object to this request on the grounds stated in the General Objections and  
 8 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 9 respect to the information sought in this request because Defendants SAP AG and SAP America  
 10 have no additional knowledge separate and apart from the information provided by Defendant  
 11 TomorrowNow in this response. Defendants object to the request because the terms "copy," and  
 12 "created" make this request overly broad, vague, and ambiguous. Further, Defendants object to  
 13 this request as compound and unduly burdensome in that this request asks 33,185 separate  
 14 questions, and the request would require Defendants to review substantial business records to  
 15 determine an answer, if possible, for each of the 33,185 separate requests. Defendants also object  
 16 to the term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase  
 17 "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix  
 18 Object's" place.

19 Subject to the General Objections and Responses and these specific objections, after a  
 20 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 21 sufficient information to respond to these requests as the information sought by these requests  
 22 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 23 this basis, therefore, these requests are DENIED.

24 **REQUEST NO. 24:**

25 For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 26 tested, a Copy of the listed Fix Object was tested using a Copy of PeopleTools.

27 **RESPONSE TO REQUEST NO. 24:**

28 Defendants object to this request on the grounds stated in the General Objections and

1 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 2 respect to the information sought in this request because Defendants SAP AG and SAP America  
 3 have no additional knowledge separate and apart from the information provided by Defendant  
 4 TomorrowNow in this response. Defendants object to the request because the terms "copy," and  
 5 "tested" make this request overly broad, vague, and ambiguous. Further, Defendants object to  
 6 this request as compound and unduly burdensome in that this request asks 33,185 separate  
 7 questions, and the request would require Defendants to review substantial business records to  
 8 determine an answer, if possible, for each of the 33,185 separate requests. Defendants also  
 9 object that this is an incomplete and confusing hypothetical. Defendants further object to the  
 10 term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase  
 11 "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix  
 12 Object's" place.

13       Subject to the General Objections and Responses and these specific objections, after a  
 14 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 15 sufficient information to respond to these requests as the information sought by these confusing  
 16 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 17 "readily obtainable manner." On this basis, therefore, these requests are DENIED.

18 **REQUEST NO. 25:**

19       For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 20 Created using a Copy of PeopleTools, the source of which was neither an installation from, nor a  
 21 Copy of, nor an installation from a Copy of software received from or on behalf of the recipient  
 22 stated for the respective item.

23 **RESPONSE TO REQUEST NO. 25:**

24       Defendants object to this request on the grounds stated in the General Objections and  
 25 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 26 respect to the information sought in this request because Defendants SAP AG and SAP America  
 27 have no additional knowledge separate and apart from the information provided by Defendant  
 28 TomorrowNow in this response. Defendants object to the request because the terms "copy" and

1 “created” make this request overly broad, vague, and ambiguous. Further, Defendants object to  
 2 this request as compound and unduly burdensome in that this request asks 33,185 separate  
 3 questions, and the request would require Defendants to review substantial business records to  
 4 determine an answer, if possible, for each of the 33,185 separate requests. Defendants also object  
 5 to the term “Fix Object” as overly broad, vague, and inaccurate to the extent it includes the phrase  
 6 “discrete unit of code.” Defendants respond as if the undefined term “object” was used in “Fix  
 7 Object’s” place.

8 Subject to the General Objections and Responses and these specific objections, after a  
 9 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 10 sufficient information to respond to these requests as the information sought by these requests  
 11 was not tracked, recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On  
 12 this basis, therefore, these requests are DENIED.

13 **REQUEST NO. 26:**

14 For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 15 tested, a Copy of the listed Fix Object was tested using a Copy of PeopleTools, the source of  
 16 which was neither an installation from, nor a Copy of, nor an installation from a Copy of software  
 17 received from or on behalf of the recipient stated for the respective item.

18 **RESPONSE TO REQUEST NO. 26:**

19 Defendants object to this request on the grounds stated in the General Objections and  
 20 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 21 respect to the information sought in this request because Defendants SAP AG and SAP America  
 22 have no additional knowledge separate and apart from the information provided by Defendant  
 23 TomorrowNow in this response. Defendants object to the request because the terms “copy” and  
 24 “tested” make this request overly broad, vague, and ambiguous. Further, Defendants object to  
 25 this request as compound and unduly burdensome in that this request asks 33,185 separate  
 26 questions, and the request would require Defendants to review substantial business records to  
 27 determine an answer, if possible, for each of the 33,185 separate requests. Defendants also object  
 28 that this is an incomplete and confusing hypothetical. Defendants further object to the term “Fix

1 Object" as overly broad, vague, and inaccurate to the extent it includes the phrase "discrete unit  
 2 of code." Defendants respond as if the undefined term "object" was used in "Fix Object's" place.

3         Subject to the General Objections and Responses and these specific objections, after a  
 4 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 5 sufficient information to respond to these requests as the information sought by these confusing  
 6 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 7 "readily obtainable manner." On this basis, therefore, these requests are DENIED.

8 **REQUEST NO. 27:**

9             For each item 1-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 10 Created using a Copy of PeopleTools from a Generic Environment.

11 **RESPONSE TO REQUEST NO. 27:**

12             Defendants object to this request on the grounds stated in the General Objections and  
 13 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 14 respect to the information sought in this request because Defendants SAP AG and SAP America  
 15 have no additional knowledge separate and apart from the information provided by Defendant  
 16 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 17 "created," and "generic environment" make this request overly broad, vague, and ambiguous.  
 18 Further, Defendants object to this request as compound and unduly burdensome in that this  
 19 request asks 33,185 separate questions, and the request would require Defendants to review  
 20 substantial business records to determine an answer, if possible, for each of the 33,185 separate  
 21 requests. Defendants also object to the term "Fix Object" as overly broad, vague, and inaccurate  
 22 to the extent it includes the phrase "discrete unit of code." Defendants respond as if the  
 23 undefined term "object" was used in "Fix Object's" place.

24         Subject to the General Objections and Responses and these specific objections, after a  
 25 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 26 sufficient information to respond to these requests as the information sought by these requests  
 27 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 28 this basis, therefore, these requests are DENIED.

**REQUEST NO. 28:**

For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was tested using a Copy of PeopleTools from a Generic Environment.

**RESPONSE TO REQUEST NO. 28:**

Defendants object to this request on the grounds stated in the General Objections and Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with respect to the information sought in this request because Defendants SAP AG and SAP America have no additional knowledge separate and apart from the information provided by Defendant TomorrowNow in this response. Defendants object to the request because the terms "copy," "tested," and "generic environment" make this request overly broad, vague, and ambiguous. Further, Defendants object to this request as compound and unduly burdensome in that this request asks 33,185 separate questions, and the request would require Defendants to review substantial business records to determine an answer, if possible, for each of the 33,185 separate requests. Defendants also object that this is an incomplete and confusing hypothetical. Defendants further object to the term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix Object's" place.

Subject to the General Objections and Responses and these specific objections, after a reasonable inquiry, based on Defendants' understanding of these questions, Defendants lack sufficient information to respond to these requests as the information sought by these confusing and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On this basis, therefore, these requests are DENIED.

**REQUEST NO. 29:**

For each item 1-33186 on Exhibit D, admit that, in Creating a Copy of the listed Fix Object, SAP TN made a backup copy of at least one Local Environment.

**RESPONSE TO REQUEST NO. 29:**

Defendants object to this request on the grounds stated in the General Objections and

1 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 2 respect to the information sought in this request because Defendants SAP AG and SAP America  
 3 have no additional knowledge separate and apart from the information provided by Defendant  
 4 TomorrowNow in this response. Defendants object to the request because the terms "creating,"  
 5 "copy," "backup copy," and "local environment" make this request overly broad, vague, and  
 6 ambiguous. Further, Defendants object to this request as compound and unduly burdensome in  
 7 that this request asks 33,185 separate questions, and the request would require Defendants to  
 8 review substantial business records to determine an answer, if possible, for each of the 33,185  
 9 separate requests. Defendants also object to the term "Fix Object" as overly broad, vague, and  
 10 inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if  
 11 the undefined term "object" was used in "Fix Object's" place.

12 Subject to the General Objections and Responses and these specific objections, after a  
 13 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 14 sufficient information to respond to these requests as the information sought by these requests  
 15 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 16 this basis, therefore, these requests are DENIED.

17 **REQUEST NO. 30:**

18 For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 19 tested, in testing a Copy of the listed Fix Object, SAP TN made a backup copy of at least one  
 20 Local Environment.

21 **RESPONSE TO REQUEST NO. 30:**

22 Defendants object to this request on the grounds stated in the General Objections and  
 23 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 24 respect to the information sought in this request because Defendants SAP AG and SAP America  
 25 have no additional knowledge separate and apart from the information provided by Defendant  
 26 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 27 "tested/testing," "backup copy," and "local environment" make this request overly broad, vague,  
 28 and ambiguous. Further, Defendants object to this request as compound and unduly burdensome

1 in that this request asks 33,185 separate questions, and the request would require Defendants to  
 2 review substantial business records to determine an answer, if possible, for each of the 33,185  
 3 separate requests. Defendants also object that this is an incomplete and confusing hypothetical.  
 4 Defendants further object to the term “Fix Object” as overly broad, vague, and inaccurate to the  
 5 extent it includes the phrase “discrete unit of code.” Defendants respond as if the undefined term  
 6 “object” was used in “Fix Object’s” place.

7 Subject to the General Objections and Responses and these specific objections, after a  
 8 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 9 sufficient information to respond to these requests as the information sought by these confusing  
 10 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 11 “readily obtainable manner.” On this basis, therefore, these requests are DENIED.

12 **REQUEST NO. 31:**

13 For each item 1-33186 on Exhibit D, admit that, in Creating a Copy of the listed Fix  
 14 Object, SAP TN restored at least one Local Environment from a backup copy.

15 **RESPONSE TO REQUEST NO. 31:**

16 Defendants object to this request on the grounds stated in the General Objections and  
 17 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 18 respect to the information sought in this request because Defendants SAP AG and SAP America  
 19 have no additional knowledge separate and apart from the information provided by Defendant  
 20 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 21 “creating,” “backup copy,” “restored,” and “local environment” make this request overly broad,  
 22 vague, and ambiguous. Further, Defendants object to this request as compound and unduly  
 23 burdensome in that this request asks 33,185 separate questions, and the request would require  
 24 Defendants to review substantial business records to determine an answer, if possible, for each of  
 25 the 33,185 separate requests. Defendants also object to the term “Fix Object” as overly broad,  
 26 vague, and inaccurate to the extent it includes the phrase “discrete unit of code.” Defendants  
 27 respond as if the undefined term “object” was used in “Fix Object’s” place.

28 Subject to the General Objections and Responses and these specific objections, after a

1 reasonable inquiry, based on Defendants' understanding of these questions, Defendants lack  
 2 sufficient information to respond to these requests as the information sought by these requests  
 3 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 4 this basis, therefore, these requests are DENIED.

5 **REQUEST NO. 32:**

6 For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 7 tested, in testing a Copy of the listed Fix Object, SAP TN restored at least one Local Environment  
 8 from a backup copy.

9 **RESPONSE TO REQUEST NO. 32:**

10 Defendants object to this request on the grounds stated in the General Objections and  
 11 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 12 respect to the information sought in this request because Defendants SAP AG and SAP America  
 13 have no additional knowledge separate and apart from the information provided by Defendant  
 14 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 15 "tested/testing," "backup copy," "restored," and "local environment" make this request overly  
 16 broad, vague, and ambiguous. Further, Defendants object to this request as compound and  
 17 unduly burdensome in that this request asks 33,185 separate questions, and the request would  
 18 require Defendants to review substantial business records to determine an answer, if possible, for  
 19 each of the 33,185 separate requests. Defendants also object that this is an incomplete and  
 20 confusing hypothetical. Defendants further object to the term "Fix Object" as overly broad,  
 21 vague, and inaccurate to the extent it includes the phrase "discrete unit of code." Defendants  
 22 respond as if the undefined term "object" was used in "Fix Object's" place.

23 Subject to the General Objections and Responses and these specific objections, after a  
 24 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 25 sufficient information to respond to these requests as the information sought by these confusing  
 26 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 27 "readily obtainable manner." On this basis, therefore, these requests are DENIED.

28

**REQUEST NO. 33:**

For each item 1-33186 on Exhibit D, admit that, in Creating a Copy of the listed Fix Object, SAP TN made a Copy of at least one Local Environment.

**RESPONSE TO REQUEST NO. 33:**

Defendants object to this request on the grounds stated in the General Objections and Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with respect to the information sought in this request because Defendants SAP AG and SAP America have no additional knowledge separate and apart from the information provided by Defendant TomorrowNow in this response. Defendants object to the request because the terms "copy," "creating," and "local environment" make this request overly broad, vague, and ambiguous. Further, Defendants object to this request as compound and unduly burdensome in that this request asks 33,185 separate questions, and the request would require Defendants to review substantial business records to determine an answer, if possible, for each of the 33,185 separate requests. Defendants further object to the term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix Object's" place.

Subject to the General Objections and Responses and these specific objections, after a reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack sufficient information to respond to these requests as the information sought by these requests was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On this basis, therefore, these requests are DENIED.

**REQUEST NO. 34:**

For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was tested, in testing a Copy of the listed Fix Object, SAP TN made a copy of at least one Local Environment.

**RESPONSE TO REQUEST NO. 34:**

Defendants object to this request on the grounds stated in the General Objections and Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

1 respect to the information sought in this request because Defendants SAP AG and SAP America  
 2 have no additional knowledge separate and apart from the information provided by Defendant  
 3 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 4 “tested/testing,” and “local environment” make this request overly broad, vague, and ambiguous.  
 5 Further, Defendants object to this request as compound and unduly burdensome in that this  
 6 request asks 33,185 separate questions, and the request would require Defendants to review  
 7 substantial business records to determine an answer, if possible, for each of the 33,185 separate  
 8 requests. Defendants also object that this is an incomplete and confusing hypothetical.  
 9 Defendants further object to the term “Fix Object” as overly broad, vague, and inaccurate to the  
 10 extent it includes the phrase “discrete unit of code.” Defendants respond as if the undefined term  
 11 “object” was used in “Fix Object’s” place.

12       Subject to the General Objections and Responses and these specific objections, after a  
 13 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 14 sufficient information to respond to these requests as the information sought by these confusing  
 15 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 16 “readily obtainable manner.” On this basis, therefore, these requests are DENIED.

17 **REQUEST NO. 35:**

18       For each item 1-33186 on Exhibit D, admit that, in Creating a Copy of the listed Fix  
 19 Object, SAP TN modified at least one Local Environment.

20 **RESPONSE TO REQUEST NO. 35:**

21       Defendants object to this request on the grounds stated in the General Objections and  
 22 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 23 respect to the information sought in this request because Defendants SAP AG and SAP America  
 24 have no additional knowledge separate and apart from the information provided by Defendant  
 25 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 26 “creating,” “modified,” and “local environment” make this request overly broad, vague, and  
 27 ambiguous. Further, Defendants object to this request as compound and unduly burdensome in  
 28 that this request asks 33,185 separate questions, and the request would require Defendants to

1 review substantial business records to determine an answer, if possible, for each of the 33,185  
 2 separate requests. Defendants also object to the term “Fix Object” as overly broad, vague, and  
 3 inaccurate to the extent it includes the phrase “discrete unit of code.” Defendants respond as if  
 4 the undefined term “object” was used in “Fix Object’s” place.

5 Subject to the General Objections and Responses and these specific objections, after a  
 6 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 7 sufficient information to respond to these requests as the information sought by these requests  
 8 was not tracked, recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On  
 9 this basis, therefore, these requests are DENIED.

10 **REQUEST NO. 36:**

11 For each item 1-33186 on Exhibit D, admit that, in Creating a Copy of the listed Fix  
 12 Object, SAP TN modified at least one Local Environment so as to create a derivative work,  
 13 within the meaning of 17 U.S.C. § 101, that was based on copyrighted Oracle software.

14 **RESPONSE TO REQUEST NO. 36:**

15 Defendants object to this request on the grounds stated in the General Objections and  
 16 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 17 respect to the information sought in this request because Defendants SAP AG and SAP America  
 18 have no additional knowledge separate and apart from the information provided by Defendant  
 19 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 20 “creating,” “modified,” “derivative work,” “copyrighted Oracle software,” and “local  
 21 environment” make this request overly broad, vague, and ambiguous. Further, Defendants object  
 22 to this request as compound and unduly burdensome in that this request asks 33,185 separate  
 23 questions, and the request would require Defendants to review substantial business records to  
 24 determine an answer, if possible, for each of the 33,185 separate requests. Defendants object to  
 25 this request for admission because it calls for a conclusion of law. Defendants further object to  
 26 the term “Fix Object” as overly broad, vague, and inaccurate to the extent it includes the phrase  
 27 “discrete unit of code.” Defendants respond as if the undefined term “object” was used in “Fix  
 28 Object’s” place.

1                   Subject to the General Objections and Responses and these specific objections, these  
 2 requests only seek conclusions of law, and on that basis are DENIED.

3 **REQUEST NO. 37:**

4                   For each item 1-33186 on Exhibit D, admit that SAP TN's modification of at least one  
 5 Local Environment in the course of Creating a Copy of the listed Fix Object was unlicensed.

6 **RESPONSE TO REQUEST NO. 37:**

7                   Defendants object to this request on the grounds stated in the General Objections and  
 8 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 9 respect to the information sought in this request because Defendants SAP AG and SAP America  
 10 have no additional knowledge separate and apart from the information provided by Defendant  
 11 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 12 "creating," "modification," "unlicensed," and "local environment" make this request overly broad,  
 13 vague, and ambiguous. Further, Defendants object to this request as compound and unduly  
 14 burdensome in that this request asks 33,185 separate questions, and the request would require  
 15 Defendants to review substantial business records to determine an answer, if possible, for each of  
 16 the 33,185 separate requests. Defendants object to this request for admission because it calls for a  
 17 conclusion of law. Defendants further object to the term "Fix Object" as overly broad, vague, and  
 18 inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if  
 19 the undefined term "object" was used in "Fix Object's" place.

20                   Subject to the General Objections and Responses and these specific objections, these  
 21 requests are DENIED.

22 **REQUEST NO. 38:**

23                   For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 24 tested, in testing a Copy of the listed Fix Object, SAP TN modified at least one Local  
 25 Environment.

26 **RESPONSE TO REQUEST NO. 38:**

27                   Defendants object to this request on the grounds stated in the General Objections and  
 28 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

1 respect to the information sought in this request because Defendants SAP AG and SAP America  
 2 have no additional knowledge separate and apart from the information provided by Defendant  
 3 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 4 “tested,” “modified,” and “local environment” make this request overly broad, vague, and  
 5 ambiguous. Further, Defendants object to this request as compound and unduly burdensome in  
 6 that this request asks 33,185 separate questions, and the request would require Defendants to  
 7 review substantial business records to determine an answer, if possible, for each of the 33,185  
 8 separate requests. Defendants also object that this is an incomplete and confusing hypothetical.  
 9 Defendants further object to the term “Fix Object” as overly broad, vague, and inaccurate to the  
 10 extent it includes the phrase “discrete unit of code.” Defendants respond as if the undefined term  
 11 “object” was used in “Fix Object’s” place.

12       Subject to the General Objections and Responses and these specific objections, after a  
 13 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 14 sufficient information to respond to these requests as the information sought by these confusing  
 15 and incomplete hypotheticals was not tracked, recorded, or maintained by TomorrowNow in a  
 16 “readily obtainable manner.” On this basis, therefore, these requests are DENIED.

17 **REQUEST NO. 39:**

18       For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 19 tested, in testing a Copy of the listed Fix Object, SAP TN modified at least one Local  
 20 Environment so as to create a derivative work, within the meaning of 17 U.S.C. § 101, that was  
 21 based on copyrighted Oracle software.

22 **RESPONSE TO REQUEST NO. 39:**

23       Defendants object to this request on the grounds stated in the General Objections and  
 24 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 25 respect to the information sought in this request because Defendants SAP AG and SAP America  
 26 have no additional knowledge separate and apart from the information provided by Defendant  
 27 TomorrowNow in this response. Defendants object to the request because the terms “copy,”  
 28 “tested/testing,” “modified,” “derivative work,” “copyrighted Oracle software,” and “local

1 environment” make this request overly broad, vague, and ambiguous. Further, Defendants object  
 2 to this request as compound and unduly burdensome in that this request asks 33,185 separate  
 3 questions, and the request would require Defendants to review substantial business records to  
 4 determine an answer, if possible, for each of the 33,185 separate requests. Defendants object to  
 5 this request for admission because it calls for a conclusion of law. Defendants also object that  
 6 this is an incomplete and confusing hypothetical. Defendants further object to the term “Fix  
 7 Object” as overly broad, vague, and inaccurate to the extent it includes the phrase “discrete unit  
 8 of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

9                   Subject to the General Objections and Responses and these specific objections, these  
 10 requests are DENIED.

11 **AMENDED RESPONSE TO REQUEST NO. 39:**

12                   Subject to and without waiving their General and Specific Objections, Defendants amend  
 13 their response as follows: Defendants object to this request on the grounds stated in the General  
 14 Objections and Responses. Defendants’ response is based solely on Defendant TomorrowNow’s  
 15 knowledge with respect to the information sought in this request because Defendants SAP AG  
 16 and SAP America have no additional knowledge separate and apart from the information  
 17 provided by Defendant TomorrowNow in this response. Defendants object to the request because  
 18 the terms “copy,” “tested/testing,” “modified,” “derivative work,” “copyrighted Oracle software,”  
 19 and “local environment” make this request overly broad, vague, and ambiguous. Further,  
 20 Defendants object to this request as compound and unduly burdensome in that this request asks  
 21 33,185 separate questions, and the request would require Defendants to review substantial  
 22 business records to determine an answer, if possible, for each of the 33,185 separate requests.  
 23 Defendants object to this request for admission because it calls for a conclusion of law.  
 24 Defendants also object that this is an incomplete and confusing hypothetical. Defendants further  
 25 object to the term “Fix Object” as overly broad, vague, and inaccurate to the extent it includes the  
 26 phrase “discrete unit of code.” Defendants respond as if the undefined term “object” was used in  
 27 place of “Fix Object.”

28                   Subject to the General Objections and Responses and these specific objections, these

1 requests only seek conclusions of law based on an incomplete hypothetical, and on that basis are  
 2 DENIED.

3 **REQUEST NO. 40:**

4 For each item 1-33186 on Exhibit D, admit that, if a Copy of the listed Fix Object was  
 5 tested, SAP TN's modification of at least one Local Environment in the course of testing a Copy  
 6 of the listed Fix Object was unlicensed.

7 **RESPONSE TO REQUEST NO. 40:**

8 Defendants object to this request on the grounds stated in the General Objections and  
 9 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 10 respect to the information sought in this request because Defendants SAP AG and SAP America  
 11 have no additional knowledge separate and apart from the information provided by Defendant  
 12 TomorrowNow in this response. Defendants object to the request because the terms "copy,"  
 13 "tested/testing," "modification," "unlicensed," and "local environment" make this request overly  
 14 broad, vague, and ambiguous. Further, Defendants object to this request as compound and  
 15 unduly burdensome in that this request asks 33,185 separate questions, and the request would  
 16 require Defendants to review substantial business records to determine an answer, if possible, for  
 17 each of the 33,185 separate requests. Defendants also object that this is an incomplete and  
 18 confusing hypothetical. Defendants object to this request for admission because it calls for a  
 19 conclusion of law. Defendants further object to the term "Fix Object" as overly broad, vague, and  
 20 inaccurate to the extent it includes the phrase "discrete unit of code." Defendants respond as if  
 21 the undefined term "object" was used in "Fix Object's" place.

22 Subject to the General Objections and Responses and these specific objections, these  
 23 requests are DENIED.

24 **REQUEST NO. 41:**

25 For each item 1-33186 on Exhibit D, admit that a Copy of the contents of the listed Fix  
 26 Object (with or without the same file name) was sent to at least one entity other than the recipient  
 27 stated for that item.

28

1        **RESPONSE TO REQUEST NO. 41:**

2        Defendants object to this request on the grounds stated in the General Objections and  
 3 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 4 respect to the information sought in this request because Defendants SAP AG and SAP America  
 5 have no additional knowledge separate and apart from the information provided by Defendant  
 6 TomorrowNow in this response. Defendants object to the request because the terms "copy" and  
 7 "contents" make this request overly broad, vague, and ambiguous. Further, Defendants object to  
 8 this request as compound and unduly burdensome in that this request asks 33,185 separate  
 9 questions, and the request would require Defendants to review substantial business records to  
 10 determine an answer, if possible, for each of the 33,185 separate requests. Defendants further  
 11 object to the term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the  
 12 phrase "discrete unit of code." Defendants respond as if the undefined term "object" was used in  
 13 "Fix Object's" place.

14        Subject to the General Objections and Responses and these specific objections, after a  
 15 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 16 sufficient information to respond to these requests as the information sought by these requests  
 17 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 18 this basis, therefore, these requests are DENIED.

19        **REQUEST NO. 42:**

20        For each item 1-33186 on Exhibit D, admit that a Copy of the contents of the listed Fix  
 21 Object (with or without the same file name) was used to update or modify at least one Local  
 22 Environment.

23        **RESPONSE TO REQUEST NO. 42:**

24        Defendants object to this request on the grounds stated in the General Objections and  
 25 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 26 respect to the information sought in this request because Defendants SAP AG and SAP America  
 27 have no additional knowledge separate and apart from the information provided by Defendant  
 28 TomorrowNow in this response. Defendants object to the request because the terms and phrases

1 “copy,” “contents,” “was used to update or modify,” and “local environment” make this request  
 2 overly broad, vague, and ambiguous. Further, Defendants object to this request as compound and  
 3 unduly burdensome in that this request asks 33,185 separate questions, and the request would  
 4 require Defendants to review substantial business records to determine an answer, if possible, for  
 5 each of the 33,185 separate requests. Defendants also object to the term “Fix Object” as overly  
 6 broad, vague, and inaccurate to the extent it includes the phrase “discrete unit of code.”  
 7 Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

8 Subject to the General Objections and Responses and these specific objections, after a  
 9 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 10 sufficient information to respond to these request as the information sought by these requests was  
 11 not tracked, recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On this  
 12 basis, therefore, these requests are DENIED.

13 **REQUEST NO. 43:**

14 For each item 1-33186 on Exhibit D, admit that a Copy of the contents of the listed Fix  
 15 Object (with or without the same file name) was used to update or modify at least one Local  
 16 Environment that was not a customer-specific environment for the recipient stated for that item.

17 **RESPONSE TO REQUEST NO. 43:**

18 Defendants object to this request on the grounds stated in the General Objections and  
 19 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 20 respect to the information sought in this request because Defendants SAP AG and SAP America  
 21 have no additional knowledge separate and apart from the information provided by Defendant  
 22 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
 23 “copy,” “contents,” “was used to update or modify,” and “local environment” make this request  
 24 overly broad, vague, and ambiguous. Further, Defendants object to this request as compound and  
 25 unduly burdensome in that this request asks 33,185 separate questions, and the request would  
 26 require Defendants to review substantial business records to determine an answer, if possible, for  
 27 each of the 33,185 separate requests. Defendants also object to the term “Fix Object” as overly  
 28 broad, vague, and inaccurate to the extent it includes the phrase “discrete unit of code.”

1 Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

2       Subject to the General Objections and Responses and these specific objections, after a  
 3 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 4 sufficient information to respond to these requests as the information sought by these requests  
 5 was not tracked, recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On  
 6 this basis, therefore, these requests are DENIED.

7 **REQUEST NO. 44:**

8       For each item 1-33186 on Exhibit D, admit that a Copy of the contents of the listed Fix  
 9 Object (with or without the same file name) was used to update or modify at least one Generic  
 10 Environment.

11 **RESPONSE TO REQUEST NO. 44:**

12       Defendants object to this request on the grounds stated in the General Objections and  
 13 Responses. Defendants’ response is based solely on Defendant TomorrowNow’s knowledge with  
 14 respect to the information sought in this request because Defendants SAP AG and SAP America  
 15 have no additional knowledge separate and apart from the information provided by Defendant  
 16 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
 17 “copy,” “contents,” “was used to update or modify,” and “generic environment” make this  
 18 request overly broad, vague, and ambiguous. Further, Defendants object to this request as  
 19 compound and unduly burdensome in that this request asks 33,185 separate questions, and the  
 20 request would require Defendants to review substantial business records to determine an answer,  
 21 if possible, for each of the 33,185 separate requests. Defendants also object to the term “Fix  
 22 Object” as overly broad, vague, and inaccurate to the extent it includes the phrase “discrete unit  
 23 of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

24       Subject to the General Objections and Responses and these specific objections, after a  
 25 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 26 sufficient information to respond to these requests as the information sought by these requests  
 27 was not tracked, recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On  
 28 this basis, therefore, these request are DENIED.

1     **REQUEST NO. 45:**

2           For each item 18462-33186 on Exhibit D, admit there is substantial similarity between the  
 3 protectable elements of the listed Fix Object and a file in SAP TN's possession, custody or  
 4 control that had been created by Oracle or had been delivered by Oracle as part of a PeopleSoft  
 5 application release, fix, update, upgrade or patch.

6     **RESPONSE TO REQUEST NO. 45:**

7           Defendants object to this request on the grounds stated in the General Objections and  
 8 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 9 respect to the information sought in this request because Defendants SAP AG and SAP America  
 10 have no additional knowledge separate and apart from the information provided by Defendant  
 11 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
 12 "substantial similarity," "protectable elements," "created," and "PeopleSoft application release,  
 13 fix, update, upgrade or patch" make this request overly broad, vague, and ambiguous. Further,  
 14 Defendants object to this request as compound and unduly burdensome in that this request asks  
 15 14,724 separate questions, and the request would require Defendants to review substantial  
 16 business records to determine an answer, if possible, for each of the 14,724 separate requests.  
 17 Defendants object to this request for admission because it calls for a conclusion of law.  
 18 Defendants further object to the term "Fix Object" as overly broad, vague, and inaccurate to the  
 19 extent it includes the phrase "discrete unit of code." Defendants respond as if the undefined term  
 20 "object" was used in "Fix Object's" place.

21           Subject to the General Objections and Responses and these specific objections, these  
 22 requests are DENIED.

23     **REQUEST NO. 46:**

24           For each item 18462-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 25 Created by modifying a file in SAP TN's possession, custody or control that had been created by  
 26 Oracle or had been delivered by Oracle as part of a PeopleSoft application release, fix, update,  
 27 upgrade or patch.

1           **RESPONSE TO REQUEST NO. 46:**

2           Defendants object to this request on the grounds stated in the General Objections and  
 3 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 4 respect to the information sought in this request because Defendants SAP AG and SAP America  
 5 have no additional knowledge separate and apart from the information provided by Defendant  
 6 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
 7 "copy," "created," "modifying," and "PeopleSoft application release, fix, update, upgrade or  
 8 patch" make this request overly broad, vague, and ambiguous. Further, Defendants object to this  
 9 request as compound and unduly burdensome in that this request asks 14,724 separate questions,  
 10 and the request would require Defendants to review substantial business records to determine an  
 11 answer, if possible, for each of the 14,724 separate requests. Defendants further object to the  
 12 term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase  
 13 "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix  
 14 Object's" place.

15           Subject to the General Objections and Responses and these specific objections, after a  
 16 reasonable inquiry and based on Defendants' understanding of these questions, Defendants lack  
 17 sufficient information to respond to these requests as the information sought by these requests  
 18 was not tracked, recorded, or maintained by TomorrowNow in a "readily obtainable manner." On  
 19 this basis, therefore, these requests are DENIED.

20           **REQUEST NO. 47:**

21           For each item 18462-33186 on Exhibit D, admit that a Copy of the listed Fix Object was  
 22 Created by using as a reference a file in SAP TN's possession, custody or control that had been  
 23 created by Oracle or had been delivered by Oracle as part of a PeopleSoft application release, fix,  
 24 update, upgrade or patch.

25           **RESPONSE TO REQUEST NO. 47:**

26           Defendants object to this request on the grounds stated in the General Objections and  
 27 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 28 respect to the information sought in this request because Defendants SAP AG and SAP America

1 have no additional knowledge separate and apart from the information provided by Defendant  
 2 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
 3 “copy,” “created,” “reference a file,” and “PeopleSoft application release, fix, update, upgrade or  
 4 patch” make this request overly broad, vague, and ambiguous. Further, Defendants object to this  
 5 request as compound and unduly burdensome in that this request asks 14,724 separate questions,  
 6 and the request would require Defendants to review substantial business records to determine an  
 7 answer, if possible, for each of the 14,724 separate requests. Defendants also object to the term  
 8 “Fix Object” as overly broad, vague, and inaccurate to the extent it includes the phrase “discrete  
 9 unit of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s”  
 10 place.

11 Subject to the General Objections and Responses and these specific objections, after a  
 12 reasonable inquiry and based on Defendants’ understanding of these questions, Defendants lack  
 13 sufficient information to respond to these requests as the information sought by these requests  
 14 was not tracked, recorded, or maintained by TomorrowNow in a “readily obtainable manner.” On  
 15 this basis, therefore, these requests are DENIED.

16 **REQUEST NO. 48:**

17 For each item 18462-33186 on Exhibit D, admit that the listed Fix Object is a derivative  
 18 work within the meaning of 17 U.S.C. § 101.

19 **RESPONSE TO REQUEST NO. 48:**

20 Defendants object to this request on the grounds stated in the General Objections and  
 21 Responses. Defendants object to the request because the term “derivative work” makes this  
 22 request overly broad, vague, and ambiguous. Further, Defendants object to this request as  
 23 compound and unduly burdensome in that this request asks 14,724 separate questions, and the  
 24 request would require Defendants to review substantial business records to determine an answer,  
 25 if possible, for each of the 14,724 separate requests. Defendants object to this request for  
 26 admission because it calls for a conclusion of law. Defendants further object to the term “Fix  
 27 Object” as overly broad, vague, and inaccurate to the extent it includes the phrase “discrete unit  
 28 of code.” Defendants respond as if the undefined term “object” was used in “Fix Object’s” place.

1                   Subject to the General Objections and Responses and these specific objections, these  
 2 requests only seek conclusions of law, and on that basis are DENIED.

3 **REQUEST NO. 49:**

4                   For each item 18462-33186 on Exhibit D, admit that SAP TN's modification of a file that  
 5 had been created by Oracle or had been delivered by Oracle as part of a PeopleSoft application  
 6 release, fix, update, upgrade or patch so as to Create the listed Fix Object was unlicensed.

7 **RESPONSE TO REQUEST NO. 49:**

8                   Defendants object to this request on the grounds stated in the General Objections and  
 9 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
 10 respect to the information sought in this request because Defendants SAP AG and SAP America  
 11 have no additional knowledge separate and apart from the information provided by Defendant  
 12 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
 13 "created," "modification," "PeopleSoft application release, fix, update, upgrade or patch," and  
 14 "unlicensed" make this request overly broad, vague, and ambiguous. Further, Defendants object  
 15 to this request as compound and unduly burdensome in that this request asks 14,724 separate  
 16 questions, and the request would require Defendants to review substantial business records to  
 17 determine an answer, if possible, for each of the 14,724 separate requests. Defendants object to  
 18 this request for admission because it calls for a conclusion of law. Defendants further object to  
 19 the term "Fix Object" as overly broad, vague, and inaccurate to the extent it includes the phrase  
 20 "discrete unit of code." Defendants respond as if the undefined term "object" was used in "Fix  
 21 Object's" place.

22                   Subject to the General Objections and Responses and these specific objections, these  
 23 requests only seek conclusions of law, and on that basis are DENIED.

24 **REQUEST NO. 50:**

25                   For each item 18462-33186 on Exhibit D, admit that SAP TN's use as a reference of a file  
 26 that had been created by Oracle or had been delivered by Oracle as part of a PeopleSoft  
 27 application release, fix, update, upgrade or patch so as to Create the listed Fix Object was  
 28 unlicensed.

## **RESPONSE TO REQUEST NO. 50**

2 Defendants object to this request on the grounds stated in the General Objections and  
3 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with  
4 respect to the information sought in this request because Defendants SAP AG and SAP America  
5 have no additional knowledge separate and apart from the information provided by Defendant  
6 TomorrowNow in this response. Defendants object to the request because the terms and phrases  
7 "created," "use as a reference of a file," "PeopleSoft application release, fix, update, upgrade or  
8 patch," and "unlicensed" make this request overly broad, vague, and ambiguous. Further,  
9 Defendants object to this request as compound and unduly burdensome in that this request asks  
10 14,724 separate questions, and the request would require Defendants to review substantial  
11 business records to determine an answer, if possible, for each of the 14,724 separate requests.  
12 Defendants object to this request for admission because it calls for a conclusion of law.  
13 Defendants further object to the term "Fix Object" as overly broad, vague, and inaccurate to the  
14 extent it includes the phrase "discrete unit of code." Defendants respond as if the undefined term  
15 "object" was used in "Fix Object's" place.

Subject to the General Objections and Responses and these specific objections, these requests only seek conclusions of law, and on that basis are DENIED.

Dated: December 4, 2009

JONES DAY

By: /s/ Jason McDonell  
Jason McDonell

Counsel for Defendants  
SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

## PROOF OF SERVICE

I, Laurie Paige Burns, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 California Street, 26th Floor, San Francisco, California 94104. On December 4, 2009, I served a copy of the attached document(s):

**DEFENDANTS' SECOND AMENDED AND SUPPLEMENTAL  
RESPONSES TO PLAINTIFFS' THIRD SET OF REQUESTS FOR  
ADMISSION TO DEFENDANTS TOMORROWNOW, INC., SAP AG,  
AND SAP AMERICA, INC.**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Donn Pickett  
Geoffrey M. Howard  
Holly A. House  
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Executed on December 4, 2009, at San Francisco, California.

By: Laurie Paige Burns